domestic corporations. The constitution of Alabama, 1875, guaranteed and extended to all persons alike the privilege to sue and be sued in any and all courts. This provision, Art. 14, § 12, of the 1875 constitution, now § 240 of the 1901 constitution, was construed by the Supreme Court of Alabama in *South & North R. Co.* v. *Morris,* 65 Ala. 199, and *Smith* v. *L. & N. R. Co.,* 75 Ala. 451. In the latter the court after citing *County of San Mateo* v. *S. P. R. R. Co.* (*C. C.*) 8 Sawy. 238, 13 Fed. 722, to the effect that § 1 of the Fourteenth Amendment applied to corporations as well as natural persons, held: "That the sum of these provisions is that no burden can be imposed upon one class of persons natural or artificial, that is not in like conditions imposed upon all other classes." When a constitutional provision has been construed and is afterwards incorporated into a new and revised constitution, it must be presumed to retain the same construction and to have been embodied, with this construction into the new constitution. *Ex. parte Roundtree,* 51 Ala. 42. Therefore the § 240 of constitution of 1901 must receive the same construction as Art. 14, § 12 of the constitution of 1875, and that constitution prohibits the exercise of the right of expulsion or forfeiture. Likewise does the constitution of the United States prohibit its enforcement. For no act of the state is lawful which will impair the validity of a contract it has authorized, or deprive a foreign corporation of property without due process of law or deny to it the equal protection of the laws. See 6 MICH. LAW REV. 587, 588; 5 Id. 58.

CONSTITUTIONAL LAW—POLICE POWER—PERSONAL LIBERTY—PHOTOGRAPHING PERSONS CHARGED WITH CRIME.—Plaintiff arrested on a charge of embezzlement, and about to be photographed and measured according to the Bertillon system by the police, previous to conviction, seeks to restrain by injunction this proceeding. *Held* the injunction must be denied, as the proceeding does not violate the personal liberty provisions of the United States and state constitutions. *Downs* v. *Swann et al.* (1909), — Md. —, 73 Atl. 653.

The right to employ the Bertillon system under the police power has been recognized in most if not all jurisdictions, but the right to subject the accused to it previous to conviction has been questioned—*Molineux* v. *Collins,* 177 N. Y. 395, 69 N. E. 727, 65 L. R. A. 104; *Schulman* v. *Whitaker,* 117 La. 703, 42 South. 227, 7 L. R. A. (N. S.) 274; *Itzkovitch* v. *Whitaker,* 115 La. 479, 39 South. 499, 1 L. R. A. (N. S.) 1147; *People* v. *York,* 27 Misc. Rep. 658, 59 N. Y. Supp. 418; *Owen* v. *Partridge,* 40 Misc. Rep. 415, 82 N. Y. Supp. 248; The question was also reviewed in *State* v. *Clausmeier,* 154 Ind. 599, 57 N. E. 541, 50 L. R. A. 73, 77 Am. St. Rep. 511; where it was held lawful to photograph and measure persons previous to conviction, if the officer in his discretion thinks it necessary to prevent escape or to assure recapture. This decision (*Downs* v. *Swann*), follows the decision in *Shaffer* v. *United States,* 24 App. D. C. 417; where it is held just as lawful to photograph a person previous to conviction as to present him to one for identification; the court says, however, "We must not be understood to countenance the placing in the rogue's gallery of the photograph of any person,

not a habitual criminal, who has been arrested, but not convicted, on a criminal charge, or the publication under those circumstances of his Bertillon record."

CONTEMPT—MURDER OF PRISONER PENDING HIS APPEAL.—Johnson, a negro, was arrested on the charge of rape. Shortly after his arrest there were several unsuccessful attempts to lynch him. An immediate trial resulted in a verdict of guilty and he was sentenced to be hanged. The day before execution of the sentence, an appeal from an order of the Federal Circuit Court, denying relief by habeas corpus, was granted by the United States Supreme Court; execution was stayed. That night a mob broke open the jail and lynched Johnson while he was in the custody of the sheriff and his deputies. The Court reviews at length the conduct of the sheriff under the circumstances. *Held,* that the sheriff is in contempt because he was "in sympathy with the mob while pretending to perform his official duty, that he and some of his deputies aided and abetted the mob, and that these acts were committed by defendants with the intent upon their part to prevent the Court from hearing Johnson's appeal. (Mr. Justice Peckham, Mr. Justice White and Mr. Justice McKenna dissenting.) *United States* v. *Shipp et al.* (1909), 29 Sup. Ct. 637.

In this same cause the Court announces the rule that although it be without jurisdiction of the appeal before it, it is contempt to disregard its mandates preserving the existing conditions until it decides the question of its jurisdiction. *United States* v. *Shipp* (1906), 203 U. S. 563; 8 Am. & Eng. Ann. Cas. 265. Throughout the majority and dissenting opinions there is no authority cited except as to the preliminary point above. The decision is founded upon the inherent power of a court to punish for contempt. Diligent search by the writer has failed to disclose any case similar to the one under consideration. In one view of the case, it adds a new element to the problem of lynch law. "Sheriffs being officers of the court are guilty of contempt when they disobey the orders of the court or wilfully or intentionally neglect their duties." BAILEY JURISDICTION, p. 406. From the case it appears that because of malfeasance and non-feasance of the duties of sheriff, from which the Court finds him in sympathy with the mob, he is also charged with the mob's intent, which was to prevent the delay resulting from the appeal allowed by the Supreme Court.

COUNTIES—ACTION BY TAXPAYER—COMPENSATION OF ATTORNEY.—Plaintiffs, attorneys-at-law, brought action at the instigation of a citizen and taxpayer in behalf of the taxpayers of the said county to declare void certain illegal appropriations of county money. Having been successful, and being denied a fee by the county for the services rendered, this action is brought to recover a fee on the ground of contribution from the remaining taxpayers. *Held,* the action can not be maintained against the county as it is a subordinate, political division of the state. *Marion County* v. *Rives & McChord* (1909), — Ky. —, 118 S. W. 309.

At common law a county could neither sue nor be sued: *Chicot County* v.